

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
CHARLESTON DIVISION**

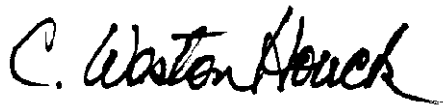
Ashley II of Charleston, L.L.C.,	)	
	)	
	)	
Plaintiff,	)	Civil Action No.: 2:05-2782-CWH
	)	
vs.	)	
	)	
PCS Nitrogen, Inc.,	)	<b>ORDER</b>
	)	
Defendant/Third Party Plaintiff,	)	
	)	
	)	
vs.	)	
	)	
James H. Holcombe and J. HenryFair, Jr.,	)	
	)	
Third Party Defendant.	)	
	)	

This matter is before the Court on the motion of the defendant PCS Nitrogen, Inc. (“PCS”) to certify the Court’s findings of fact and conclusions of law for interlocutory appeal. On September 28, 2007, the Court found that CNC Corp. (“new CNC”) is the successor to Columbia Nitrogen Corporation (“old CNC”) and held that PCS is the successor to old CNC. On January 14, 2008, PCS moved this Court to certify four questions arising from those findings of fact and conclusions of law for appeal.

Interlocutory appeal of an order not otherwise appealable may be proper when the district is “of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal may materially advance the ultimate termination of the litigation.” 28 U.S.C. §1292(b). This Court is not of the

opinion that an interlocutory appeal of its findings and conclusions may materially advance the ultimate termination of the litigation. The Court's findings and conclusions were the product of a three day bench trial involving numerous attorneys and many complex issues of law as well as a thorough review of a voluminous record. It appears that the wisest use of judicial resources would be to appeal all issues after this court has made its final determinations. Accordingly, the Court declines to certify its findings and conclusions for interlocutory appeal because interlocutory appeal would needlessly delay the disposition of this action.

**AND IT IS SO ORDERED.**

A handwritten signature in black ink, reading "C. Weston Houck". The signature is written in a cursive, flowing style.

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C. WESTON HOUCK  
UNITED STATES DISTRICT COURT JUDGE

April 22, 2008  
Charleston, South Carolina